IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 6845 of 2002
with
CIVIL APPLICATION NO.5254 OF 2002

For Approval and Signature:

Hon'ble MR.JUSTICE JAYANT PATEL

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

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LAXMANBHAI KALABHAI RATHOD

Versus

STATE OF GUJARAT

Appearance:

1. Special Civil Application No. 6845 of 2002
MS YAMINI J DESAI for Petitioner No. 1-5
MR RE VARIAVA for Respondent No. 1
GOVERNMENT PLEADER for Respondent No. 1,2-3

2. Civil Application No.5245 of 2002
Mr.R.E.Variava for applicants
Ms.Yamini J.Desai for opponents

CORAM : MR.JUSTICE JAYANT PATEL

Date of decision: 06/09/2002

ORAL JUDGEMENT

Civil Application No.5245/02 is allowed. Considering the facts and circumstances applicants are permitted to be impleaded as party respondents.

2. Rule. Ms.Manisha Shah, Ld.AGP waives service of rule on behalf of respondent Nos 1,2 & 3 and Mr.Variava waives service of rule on behalf of newly added respondents.

3. When the matter is taken up for hearing, it has been submitted that the notification which is under challenge is effective till 10.9.02 only. In that view of the matter, I am of the opinion that it is not necessary for this court to examine in detail the various questions raised in this petition and arguments advanced by both sides and, more particularly, because the Ld.AGP has made a statement under instructions given by the Asst.Director of Fisheries Mr.M.A.Vergese who is present in the court that this notification is not to be extended further. In that view of the matter, since the notification under challenge is to expire on 10.9.02 I am not expressing any final view on merits in detail, but after arguments by both sides it, primafacie, appears that there may be laudable purpose of preventing the fishing activities of Hilsa fish in the fresh water, but at the same time, small fishermen who have no means of boats must also survive. It is also required to be seen by the authorities that when the small fishermen undertake fishing activities proper provisions may be made for transportation of boats. It is hoped that next time when the question arise for exercise of powers the same will be taken into consideration.

4. It is clarified that the aforesaid observations are not by way of any mandate directions but it is expected that the same will be considered by exercising power in accordance with law.

5. In view of the aforesaid observations, petition is disposed of. Rule is discharged.

6.9.02 (JAYANT PATEL,J)